

# Central Valley Flood Protection Plan Management Actions Workshop Summary Policy and Regulations

**July 19, 2010, 1:30 p.m. – 5 p.m.**

**Center for Collaborative Policy**

**815 S Street, First Floor, Sacramento, CA 95811**

## Participants: 51

Name	Organization
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Dietl, Mike	US Army Corps of Engineers
Gau, Tom	San Joaquin County Public Works
Kauffman, Kevin	Stockton East Water District
McIlroy, Sarah	Stantec Consulting
Nagy, Meegan	US Army Corps of Engineers
Roscoe, Terry	California Department of Fish and Game
Roth, Larry	Arcadis
Shpak, Dave	City of West Sacramento
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Zezulak, Dave	California Department of Fish and Game
Bennett, Bill	GEI Consultants
Clark, Andrea	Downey Brand LLP
Crew, William	City of Modesto
Giottonini, Jim	City of Stockton, San Joaquin Area Flood Control Association
Hobbs, Jennifer	US Fish and Wildlife Service
Lasko, Gene	California Department of Fish and Game
Ohlin, Ernie	Tehama County
Patterson, Elizabeth	City of Benicia
Puckett, Sarah	Natural Heritage Institute
Rentner, Julie	River Partners
Sanchez, Dennis	AECOM
Stork, Ron	Friends of the River
Tatayon, Susan	The Nature Conservancy
Wagner-Tyack, Jane	Restore the Delta
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*Italic = Attended via webinar*

This summary only includes comments made during the workshop. Written comments submitted after the workshop will be available at <http://www.water.ca.gov/cvfmfp>.

### Comments and Questions on Draft Initial Management Actions

#### **MA-049: Encourage compatible land uses with flood management system and floodplain function**

- Reference was made to errata sheet: The **Recommendations** should be changed from “Not retained” to “Retained,” and the **Likelihood of Implementation** should be changed from “Not implementable without significant changes in legislation regarding land use authority” to “Implementation is compatible with the current legislation requirements to address flood hazards in local land use planning, and the State’s policy for preserving land use authority within local jurisdictions.”
- There was a question as to whether this Management Action focused on new development and, if so, did other Management Actions address existing development. For example, saying that flood management and flood fight strategies need to consider existing development.
- The reference to floodplains should be defined in context throughout the document. When the term “floodplain” is used – it should be specified as to whether that is the 100-, 200-, 500-, or 1000-year floodplain.
- The methodology section should make reference to both counties and cities.
- Another comment was to add school districts and other independent jurisdictions with land use decisions.
- The land use consideration should include lands that may be needed for the flood management systems themselves. For example, there may be a flood bypass system that is a mile wide. If the outcome is to convey more water, the likely outcome is a wider floodplain. Beyond a matter of general uses of flood-prone land, this should address specific uses that flood management itself might wish to achieve.
- The floodplain needed for promoting beneficial floodplain function may be different from the 200-year floodplain. Also, there should be a distinction between local creek floodplains and levee-protected floodplains.
- Avoidance costs should be included in the low impact development discussion. This is a strategy to assure that floodplain capacity is maintained, and is captured in the “methodology section” for MA-049.
- This Management Action is not intended to overstep local authority, but encourage compatible planning (zoning and management).
- References to “state” responsibilities should identify specific agencies and actions for the various agencies. Many agencies may be involved in implementation.
- Under Social Considerations, it says that Public Safety would be improved by reducing the frequency and consequences of flooding. How would this Management Action reduce the frequency of flooding? Areas (with some type of development allowed) would not flood less, but consequences would be less.
- The methodology lists appropriate cropping. Most counties use a general plan and zoning categories; counties don’t tell agriculture what to produce. Clarify what the research and recommendations would address in terms of “appropriate cropping.”
- There should be additional detail on potential for cost-sharing. For example: What authorities and laws will be pursued for each action?
- Administrative costs also need to be addressed, for the state and local entities. This is not a capital-cost action; there will be additional costs at every level to implement this.

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### ***MA-050: Establish clear triggers or policy for updating flood management-related General Plan elements and other local flood management plan(s)***

- Under goals, how does this MA promote eco-system function and multi-function projects? Updating general plans more frequently won't necessarily lead to that. More frequent updates may not be helpful. It is the execution and implementation of the policies that is crucial.
- Incorporating performance measures as part of the General Plan will help track implementation. That will provide the link between the Management Action and the goal of public safety. It would be more useful to have standards for General Plans, to list procedures for achieving reductions.
- DWR is working with OPR and CalEMA to develop a draft handbook to assist cities and counties with General Plan updates.
- By statute (SB 5, Machado, 2007), General Plans will be updated to be consistent with the CVFPP and to include information when the CVFPP is updated every 5 years. The first CVFPP will likely provide general information and guidance. Additional data and studies would contribute to more specific guidance in subsequent updates. General Plans should reflect information from the CVFPP beyond any updated flood-frequency data. Local agencies must be informed if land acquisition is required for flood protection purposes. Information on the potential depth of flooding in a given area is important for local agencies as well. As currently written, the problem statement doesn't address the benefits and challenges associated this Management Action.
- Local government has to show that they can handle potential floods. This doesn't make those linkages. All these things would apply to General Plans if they demonstrate capacity for floodplain management.
- In the section on cost-sharing, it's not clear what "indirect" means. Greater clarity and specificity is needed on cost-sharing.
- How will General Plan updates decrease costs? Under flood-fighting, how will updates decrease the frequency and consequences of flooding? On the last page, how do you get these things from updating the General Plan? Generally, it is not clear how the stated benefits derive from the Management Actions.
- There is a typo under disadvantages; this should say "not all local agencies..."

### ***MA-051: Update State's designated floodway program***

- Clarify that the 'State's designated floodway program' refers to Central Valley Flood Protection Board (CVFPB), Title 23.
- Designating additional floodways through CVFPB Title 23 is a state process. Designated floodway is not part of the SPFC. Additional information is need on whether new floodways can be included in the CVFP since they are not part of the SPFC. One option would be to include them under new recommendations for system improvements.
- The methodology section references 200-year levels of protection or areas protected by project levees. Additional clarification was provided for the deadline of 2025, which is for areas that are protected by project levees.
- Is it the intent to expand the regulatory floodway to the same footprint of the 200-year event? Would the CVFPB need to provide an encroachment permit to construct a barn? Clarify that the floodway is smaller than the 200-year floodplain and let local jurisdictions manage the process; don't require permits to be issued by the CVFPB.
- Clarify what the "corresponding share of compliance responsibility" means. Does this mean that levee design and construction standards should be part of the floodway program?
- It's not clear what will happen to O&M costs: The methodology section says that O&M costs are reduced; the costs section says that O&M costs increase.
- How does the designation of floodways increase benefits for habitat? This increases O&M and could impact habitat in the floodway. (Response: Impacts in the floodway could be mitigated across the floodplain, that won't occur within the floodway.)
- Is this applicable to the Delta or not? Does this apply to regions under the Board's jurisdiction? There may be conflicts regarding regional applicability.
- The Environmental Considerations section should be reviewed by staff with CEQA experience.

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### ***MA-052: Use Building Code amendments to reduce consequence of flooding***

- This Management Action is an example where DWR would not necessarily be the lead agency for decision making. The Building Standards Commission would consider adoption of the code update proposed by DWR.
- This was recommended by the State's Floodplain Management Task Force. The issue was about some agencies in the State are not subject to the Governor's executive order B-39-77, for example schools and colleges, resulting in at the risk of losing flood insurance coverage for the State. This background should go into the Problem Statement. The adoption of the International Building Code addresses most of the issues.
- The last sentence of the Problem Statement says "exceeding the FEMA base flood." This is not necessarily true. FEMA base flood, if based on 90% of confidence level, may be larger than the DWR 200-year flood. The Legislature specifically asked DWR to determine floodplain boundaries because of this. There could be large shifts in boundary delineation depending on risks and uncertainties. Provide better clarity regarding the 200-year and base flood. Where certainty is incorporated, the two are not comparable. DWR will have to propose Building Code amendments for areas where flood depth will be greater than 3 feet for all occupancy groups.
- There is a difference between State Building Code and local Flood Management Ordinances. This Management Action might be narrowly constructed it only applies to Building Codes. The ordinances generally provide regulation within a FEMA special flood hazard area. Building Codes go beyond 100-year floodplain, to areas where the 200-year event exceeds 3 feet. Those codes would be reflected in the community building code. The flood management ordinances apply to the FEMA 100-year floodplains.
- This has limited effectiveness in the Central Valley. The problem statement needs to talk about economic feasibility.
- Clarify that Building Code requirements do not apply to areas with non-project, 200-year certified flood protection. Generally, this Management Action should explain where Building Codes apply.
- In the Problem Statement, remove effectiveness and include economic viability.
- The Environmental Considerations section should be reviewed by staff with CEQA experience.

### ***MA-053: Update State and local floodplain management policy to be consistent with FEMA requirements for maintaining eligibility for NFIP participation and federal financial assistance designated floodway program***

- Explain that FEMA has indicated that the Executive Order was not sufficient, because it fails to capture entities that the EO does not have control over. The adoption of International Building Code (IBC), has generally resolved that issue. The State has been asked to update the Governor's Order. However, the effort has not been renewed after the adoption of the IBC.
- The problem statement seems to indicate that this is a local problem; it sounds like it's more of a state problem. Locals may encounter challenges in trying to satisfy the Management Action as stated. It might be that this should focus on updating the State's Executive Order. (DWR is working on a draft to update the State's Executive Order and is awaiting new federal Executive Order for consistency reasons.)

### ***MA-057: Encourage multi-jurisdictional and regional partnerships on flood planning and improve agency coordination on flood management activities, including operation and maintenance, repair, and restoration***

- It would be good to provide a direct reference to the Council of Governments, where partnerships could be facilitated. Perhaps insert this into the methodology section, the idea of bringing diverse jurisdictional issues through COGs. This is especially helpful for coordinating regional planning.
- Is the focus of this MA on flood management activities (flood response) and levees, or land use? (It was originally intended to focus on the first part, flood management activities.)

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- What is the intent of this Management Action? (Response: There were two components for this – some emphasis in regulatory agency direction, and then implementation. This was intended to increase efficiency and to address economic consideration.
- Is there also an intent to look at streamlining the permit application process, to benefit the process of permitting applications?
- JPAs have provided benefits for this whole process.
- In the Description Section, the box for “Improve Flood Risk Management” should be checked.

### ***MA-058: Develop State criteria and processes for urban flood protection***

- The problem statement needs to clarify that the urban level of protection by 2025 applies. Explain how reduction in state liability results from this Management Action, or how it reduces flood frequency.
- It should develop and implement criteria ...
- Under social considerations...how would this provide recreation and water supply reliability benefits? (Response: Groundwater recharge will support water supply. The recharge process may assist in providing flood protection.)
- Describe that interim levee design criteria are being developed and generally follow the Corps standards. There are areas where State criteria are different from what those provided by the Corps. This should be clarified.
- This draft Management Action tries to establish some levee standards for urban and urbanizing areas. Is there any interest, or is it contemplated, that DWR may have a different set of standards for non-urban areas? Is there another Management Action that addresses that?
- There is a proposed Management Action for nonurban areas, like Walnut Grove. This should address what it means in terms of FEMA levels of protection. The Circumstances of the state in the Central Valley may justify the need for two standards of levee design (e.g. CVFPB). Some of this will be addressed during discussions of how to develop solutions sets.
- The description should be written in a less technical manner; there should not be a check for ecosystem function.

## **Suggestions for New Management Actions**

- Non-urban levee criteria – especially the more narrow issue of engineering, vegetation and physical criteria on levees; however, there is a wide range of performance measurements depending on criteria. There are other elements, beyond levees, that could support 200-year protection. Perhaps there could be some performance measures for seepage, etc.
- Update Title 23 – Management Actions 034 and 035 talk about improving administration regarding encroachment and levee penetration. This could be included in an update to Title 23 – it seems as though that would be a policy Management Action.
- Look at LAFCO for policies regarding compatible land use – Management Action 049 occurs after agencies first acquire land through the LAFCO process. Look at LAFCO’s rule about spheres of influence, rules for annexations into existing jurisdictions, and municipal service reviews and coordination of land development and flood protection. This can inform the process of updating General Plans. Also, municipal services should include benefits of flood protection.
- Address the liability issue (Definition of State Plan of Flood Control) – Issues of federal, state and local liability need to be addressed, in terms of O & M for levees. The broader issue is that of defining the State Plan of Flood Control. It would be better to try and have DWR define the State Plan of Flood Control, rather than having it defined by the courts. It seems that the State would try and define the baseline of the SPFC now and in the future: creating a fresh definition, and what it may be in the future. That might result in the legal liability issues might falling out differently than what currently exists.

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The MA might actually be going to the legislature with specific proposal to change the law and specifically define what the SPFC is. That is an element of addressing liability,

### Other Suggestions

- Across the Management Actions, identify the processes and policies that need to be updated to accomplish the objectives.
- Make sure that disadvantages and advantages are directly linked to the content of a Management Action.
- For each Management Action, clearly define cost-sharing opportunities that the state will be pursuing such as programs, laws, potential funding.